

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
MOBILE DIVISION**

WHARF RETAIL PROPERTIES, LLC,)	
)	
Plaintiff,)	
)	
)	Case No.
)	
v.)	
)	
LANDMARK AMERICAN)	
INSURANCE COMPANY, INC.,)	
)	
Defendant.)	

**NOTICE OF REMOVAL OF DEFENDANT LANDMARK AMERICAN
INSURANCE COMPANY**

Landmark American Insurance Company (“Landmark”), defendant in the above-styled matter, within the time prescribed by law and pursuant to 28 U.S.C. § 1441, files this notice of removal, respectfully showing the Court as follows:

I. COMMENCEMENT AND SERVICE

1.

Plaintiff Wharf Retail Properties, LLC (“plaintiff”) commenced this action on September 15, 2022, by filing a complaint against Landmark in the Circuit Court of Baldwin County, Alabama, which county is within the United States District Court for the Southern District of Alabama and the Mobile Division of this Court. (Exhibit

1: Complaint – Civil Action File No. 05-CV-2022-901006.00). The lawsuit was styled as above and was numbered as Civil Action File No. 05-CV-2022-901006.00.

2.

Landmark was served with a copy of the summons and complaint by certified mail on October 15, 2022 at Landmark's principal place of business located at 945 East Paces Ferry Road NE, Suite 1800, Atlanta, Georgia 30326.

II. GROUND FOR REMOVAL

3.

Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332 because this action is between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. 28 U.S.C. § 1332(a).

III. COMPLETE DIVERSITY

4.

Plaintiff is a limited liability company organized and existing under the laws of the State of Louisiana, with its principal place of business located in Baldwin County, Alabama. (Ex. 1: Complaint, ¶ 1).

5.

Upon information and belief, Arthur Emmette Favre, III is the sole member and manager of Wharf Retail Properties, LLC. Also upon information and belief,

Favre is a citizen and resident of the State of Louisiana, and he resides at 610 Highland Crossing Street, Baton Rouge, Louisiana 70810.

6.

Landmark is a corporation organized and existing under the laws of the State of New Hampshire, with its principal place of business located in Atlanta, Georgia.

7.

Accordingly, there is complete diversity of citizenship between plaintiff and its sole member and Landmark in this action.

IV. AMOUNT IN CONTROVERSY

8.

The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. 28 U.S.C. § 1332(a).

9.

In its complaint, plaintiff has raised claims for breach of contract and bad against Landmark. (Ex 1: Complaint).

10.

Specifically, the complaint alleges that the total damages sustained by plaintiff's properties as a result of Hurricane Sally totals \$9,720,329.22 and that Landmark has paid only \$1,593,054.61 of plaintiff's claimed damages. (Ex 1: Complaint, ¶ 38). The complaint further demands compensatory damages, including

policy proceeds, attorneys' fees and costs, interest, and punitive damages. (Ex 1: Complaint, pp. *ad damnum* clauses 7, 9).

11.

The damages claimed by plaintiff in the lawsuit exceed the sum or value of \$75,000.00, exclusive of interest and costs. Therefore, the amount in controversy satisfies the jurisdictional prerequisite of 28 U.S.C. § 1332(a).

V. TIMELY REMOVAL

12.

In addition to satisfying the amount in controversy and diversity of citizenship requirements, Landmark has complied with the procedures necessary for removal contained in 28 U.S.C. § 1446.

13.

Landmark has properly filed this notice of removal of the case to the United States District Court for the Southern District of Alabama, Mobile Division, within thirty (30) days of receipt of plaintiff's complaint by Landmark. 28 U.S.C. § 1446(b)(1). As such, Landmark timely filed this notice of removal.

VI. CONCLUSION

14.

Because the amount in controversy in this lawsuit exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and there is complete diversity of

citizenship between plaintiff and Landmark, this case is subject to the original jurisdiction of this Court under 28 U.S.C. § 1332, and may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446.

15.

Attached to this notice of removal as Exhibit “2” are true and correct copies of all process, pleadings, and orders filed in the state court in this case, as required by 28 U.S.C. § 1446(a).

16.

Landmark has given written notice of the filing of this notice of removal to plaintiff by mailing a copy of this notice to its attorneys of record by U.S. Mail and electronic mail at the following addresses:

Kristopher O. Anderson, Esq. John Parker Yates, Esq. YATES ANDERSON 4851 Wharf Parkway, Suite D-230 Orange Beach, Alabama 36561 kris@yatesanderson.com parker@yatesanderson.com <i>Attorneys for Plaintiff Wharf Retail Properties, LLC</i>	Daniel E. Harrell, Esq. Clark Partington, Attorneys at Law 125 E. Intendencia Street, Fourth Floor Pensacola, Florida 32503 dharrell@clarkpartington.com <i>Attorney for Plaintiff Wharf Retail Properties, LLC</i>
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17.

In accordance with 28 U.S.C. § 1446(a), Landmark will provide written notice of the filing of this notice of removal to Brenda Q. Ganey, Clerk of Court, Circuit Court of Baldwin County, 312 Courthouse Square, Suite 10, Bay Minette, Alabama 36507, and serve copies upon all other parties.

WHEREFORE, defendant Landmark American Insurance Company respectfully prays that the above-captioned lawsuit be removed to the United States District Court for the Southern District of Alabama, Mobile Division.

Respectfully submitted this the 10th day of November, 2022.

/s/ Christina May Bolin

CHRISTINA MAY BOLIN (MAY032)

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Attorney for Defendant Landmark American Insurance Company

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **NOTICE OF REMOVAL** using the Court's electronic filing system, and served a true and correct copy of same via U.S. Mail and electronic mail on the following:

<div>Kristopher O. Anderson, Esq. John Parker Yates, Esq. YATES ANDERSON 4851 Wharf Parkway, Suite D-230 Orange Beach, Alabama 36561 kris@yatesanderson.com parker@yatesanderson.com <i>Attorneys for Plaintiff Wharf Retail Properties, LLC</i></div>	<div>Daniel E. Harrell, Esq. Clark Partington, Attorneys at Law 125 E. Intendencia Street, Fourth Floor Pensacola, Florida 32503 dharrell@clarkpartington.com <i>Attorney for Plaintiff Wharf Retail Properties, LLC</i></div>
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This the 10th day of November, 2022.

/s/ Christina May Bolin
CHRISTINA MAY BOLIN (MAY032)